

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ROBERT CLARK**

and

**A.D.A. ACCESS TODAY**

**CV: 02-CV-2853**

**Plaintiffs,**

v.

**PHILA-DELI, INC.,**

**Defendant.**

**JOHN DOE (1-10), ABC CORP. (1-10)**

**ANSWER**

Defendant Phila-Deli, Inc., by and through its undersigned attorneys, Obermayer Rebmann Maxwell & Hippel LLP, hereby answer and set forth its affirmative defenses as follows:

**JURISDICTION AND VENUE**

1. Admitted in part, denied in part. Defendant admits only that this court has original jurisdiction under 28 U.S.C. §1331 and 28 U.S.C. §1343. All other averments are denied.

2. Admitted.

**STATUTORY BACKGROUND**

3. Admitted in part, denied in part. Defendant admits Congress enacted the Americans with Disabilities Act of 1990. All other averments are conclusions of law to which no answer is required, and therefore they are denied.

4. Denied. The averments set forth in paragraph 4 of the Complaint are conclusions of law to which no answer is required, and therefore they are denied.

5. Denied. The averments set forth in paragraph 5 of the Complaint are conclusions of law to which no answer is required, and therefore they are denied.

**THE PARTIES IN STANDING**

6. Denied. Defendant is without knowledge as to the truth of the averments set forth in paragraph 6 of the Complaint, and therefore they are denied.

7. Denied. Defendant is without sufficient knowledge to the truth of the averments set forth in paragraph 7, and therefore they are denied. The averments set forth in paragraphs 7 a and b are conclusions of law to which no answer is required and therefore they are denied. To the extent that any averment set forth in paragraphs 7, 7a or 7b are not conclusions of law, they are specifically denied.

8. Denied. Defendant is without sufficient knowledge to admit the truth of the averments set forth in paragraph 8 of the Complaint, and therefore they are denied.

9. Denied.

10. Denied.

11. Admitted in part, denied in part. Defendant admits only that it owns and operates Phila-Deli, Inc. located at 410 S. 10<sup>th</sup> Street, Philadelphia, PA 19147. The remaining averments of paragraph 11 of the complaint are conclusions of law to which no answer is required, and therefore they are denied.

**THE INSTANT CLAIM**

12. Denied. The averments set forth in paragraph 12 of the complaint are conclusions of law to which no answer is required and therefore, they are denied.

13. Denied. The averments set forth in paragraph 13 of the complaint are conclusions of law to which no answer is required and therefore, they are denied.

14. Denied.

15. Denied. Defendant denies that it has discriminated and is discriminating against the plaintiffs in violation of the ADA. The remaining averments of paragraph 15 a through h are conclusions of law to which no answer is required and therefore they are denied. To the extent that any averment is not a conclusion of law, Defendant is without sufficient knowledge to answer as stated, therefore they are denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied. The averments set forth in paragraph 19 of the Complaint are conclusions of law to which no answer is required, therefore they are denied.

20. Denied.

21. Denied. The averments set forth in paragraph 21 of the Complaint are conclusions of law to which no answer is required, therefore they are denied.

**FIRST AFFIRMATIVE DEFENSE**

25. Plaintiff has failed to state a claim on which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

26. Plaintiff's requests for accommodation are not readily achievable.

**THIRD AFFIRMATIVE DEFENSE**

27. Equities do not support any injunctive relief.

**FOURTH AFFIRMATIVE DEFENSE**

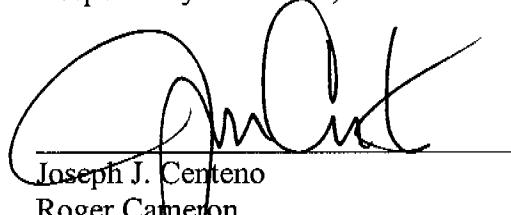
28. Plaintiff has failed to exhaust his administrative remedies.

**FIFTH AFFIRMATIVE DEFENSE**

29. All claims set forth by the plaintiff have been waived.

THEREFORE Defendant Phila-Deli, Inc. hereby seeks judgment in its favor on all claims, with costs and attorney's fee and other relief is deemed proper by the Court.

Respectfully submitted,



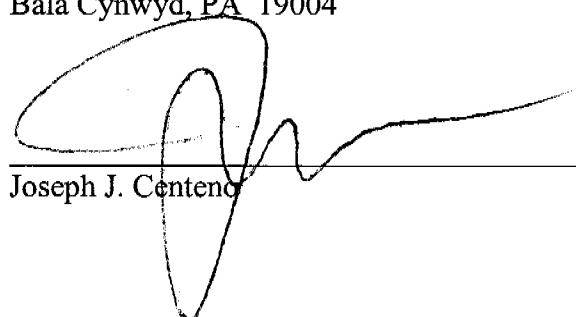
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September 23, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2002, I caused the foregoing Answer to be served via First-Class Mail, postage prepaid on the following:

Jason L. Brodsky, Esquire  
Brodsky & Smith, LLC  
Two Bala Plaza, Suite 602  
Bala Cynwyd, PA 19004

  
Joseph J. Centeno